

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

PRIMERICA LIFE INSURANCE COMPANY,)	
)	
Plaintiff,)	
)	
v.)	No. 1:15-cv-01428
)	
DEBORAH PERRY, and)	Honorable Jorge L. Alonso
THE ESTATE OF BEN PERRY, Jr.)	
)	
Defendants.)	

Related Case:

GENWORTH LIFE AND ANNUITY)	
INSURANCE COMPANY,)	
)	
Plaintiff,)	Transferred From:
)	
v.)	No. 1:15-cv-5605
)	
BENNIE MALLORY,)	Honorable Sara L. Ellis
DEBORAH PERRY, and DAVID A. EPSTEIN,)	
As Supervised Administrator of the ESTATE)	
BEN PERRY, JR., deceased,)	
)	
Defendants.)	

**GENWORTH LIFE AND ANNUITY INSURANCE COMPANY’S
MOTION FOR FINAL JUDGMENT ORDER IN INTERPLEADER**

Genworth Life and Annuity Insurance Company (“GLAIC”), by and through its attorneys, William A. Chittenden, Jennifer S. Stegmaier, and Robert S. Hunger of Chittenden, Murday, and Novotny LLC, hereby submits its Motion for Final Judgment Order in Interpleader. In support of its Motion, GLAIC states:

1. On June 24, 2015, GLAIC filed its Complaint for Interpleader and, on September 16, 2015, filed its Amended Complaint for Interpleader (“Complaint”) pursuant to Rule 22 of the

Federal Rules of Civil Procedure and 28 U.S.C. § 1335 to resolve completing claims to insurance proceeds payable under a Term Life Policy, No. J665610 (“Policy”) issued by GLAIC with Ben Perry as the Insured. See Doc. #1, Doc. #23 in case no. 1:15-cv-05605.

2. Defendants, BENNIE MALLORY, DEBORAH PERRY and THE ESTATE OF BEN PERRY, JR., are adverse claimants to the proceeds of the Policy.

3. Defendants, BENNIE MALLORY, DEBORAH PERRY and THE ESTATE OF BEN PERRY, JR., have been duly served with the Complaint and have appeared through counsel. See Doc. #13-17, Doc. #28-30 in case no. 1:15-cv-05605.

4. On June 30, 2015, with leave of court, GLAIC deposited its admitted liability under the Policy in the total amount of ONE HUNDRED SEVEN THOUSAND NINETY-FIVE and 89/100 DOLLARS (\$107,095.89), representing the value of the proceeds payable under the Policy that is in dispute plus interest, into the Registry of this Court, subject to this Court’s further orders as to whom among the Defendants is entitled to receive those proceeds. A true and correct copy of the receipt for the deposit is attached hereto and incorporated by reference herein as Exhibit 1.

5. GLAIC filed its Complaint in good faith and has done all that is required by law to perfect its Interplead Action.

6. GLAIC has properly served a copy of this Motion for Final Judgment Order in Interpleader on the Defendants.

7. GLAIC submits its proposed Final Judgment Order in Interpleader to the court via email, pursuant to and in accordance with Judge Alonso’s case management procedures.

WHEREFORE, Plaintiff, GENWORTH LIFE AND ANNUITY INSURANCE COMPANY, respectfully requests this Court enter an Order:

- A. Granting judgment in favor of GLAIC and against Defendants, BENNIE MALLORY, DEBORAH A. PERRY, and THE ESTATE OF BEN PERRY, JR.;
- B. Releasing and discharging GLAIC, its successors, assigns, representatives, agents, attorneys, and all of its affiliated companies, including officers, directors and employees from any and all liability under Policy No. J665610, or arising on account of the death of Ben Perry, to any or all of the Defendants, BENNIE MALLORY, DEBORAH A. PERRY, and THE ESTATE OF BEN PERRY, JR., or any person or entity claiming through them;
- C. Permanently and perpetually restraining and enjoining Defendants, BENNIE MALLORY, DEBORAH A. PERRY, and THE ESTATE OF BEN PERRY, JR., or any person or entity claiming through them, from commencing or prosecuting any proceeding or claim against GLAIC in any state or federal court or other forum with respect to the proceeds payable under Policy No. J665610, or on account of the death of Ben Perry and this injunction issues without bond or surety;
- D. Excusing GLAIC from further attendance in this cause and dismissing with prejudice GLAIC from this cause with an express finding that, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, there is no just reason for delaying either enforcement or appeal of this Order or both;
- E. Requiring Defendants, BENNIE MALLORY, DEBORAH A. PERRY, and THE ESTATE OF BEN PERRY, JR. to litigate their entitlement to the proceeds of the Contract among themselves without further involving GLAIC; and
- F. Granting GLAIC such other and further relief as this Court deems just and appropriate.

Respectfully Submitted,

CHITTENDEN, MURDAY & NOVOTNY LLC

By: /s/ Jennifer S. Stegmaier
One of the Attorneys for Plaintiff

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